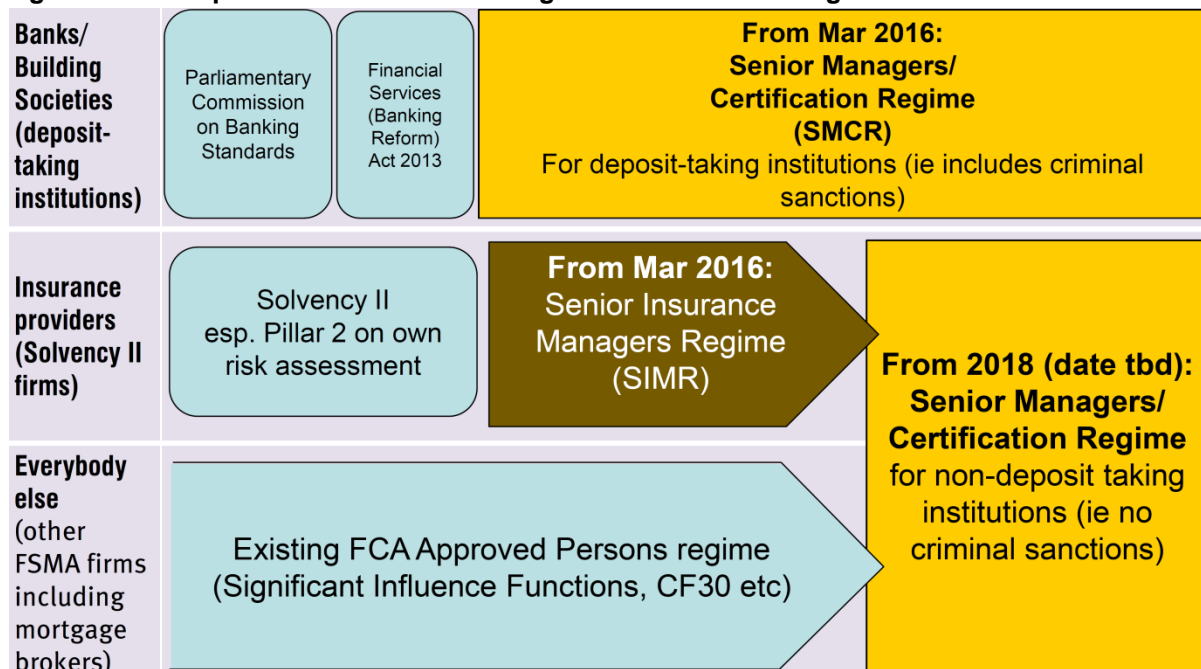


Widening the Senior Managers & Certification Regime (SMCR) to the mortgage market

The Senior Managers and Certification Regime (SMCR) is a new regulatory framework for similar fitness, propriety, conduct and accountability standards for individuals holding positions of responsibility within financial services firms including mortgage lenders and brokers.

The regime emerged from the Parliamentary Commission on Banking Standards and was developed for banks and building societies, and has caught senior executives and important functions in mortgage lenders since last March (see Figure 1 below). Following a government decision last year, it will extend to all financial services firms including mortgage brokers by the end of 2018.

Figure 1: Development of the Senior Managers & Certification Regime



At its core are comprehensive standards split threefold depending on staff seniority and exposure to affecting the public:

- **Senior Managers:** for senior staff filling “Senior Management” Functions (SMFs), namely chief executives, executive directors, and other senior management team and overall responsibility functions;
- **Significant Harm Functions (SHFs):** for individuals not filling a SMF but whose roles “are deemed capable of causing significant harm to its customers”.
- **Other staff:** all other employees except “ancillary staff” Senior manager responsibilities

Responsibilities for senior managers are significant, and require an onerous compliance structure:

- **Requirement for prior FCA approval:** prior FCA approval for each person appointed to perform one or more SMFs, before the person takes up the function
- **Statement of responsibilities:** setting out which aspects of the firm's affairs that person will be responsible for managing. Includes “management responsibilities map” showing details of reporting lines, including how SMFs have been allocated
- **Allocation of prescribed responsibilities:** there is a long list of prescribed responsibilities, such as compliance with regulatory requirements, and training and professional development.
- **Regulatory references:** firms take reasonable steps to obtain appropriate references from the person's current and previous employers to six years.

Figure 2: Requirements under SMCR compared to the FCA Approved Persons

FCA APER	SIMR	SMCR	Basic Requirements under SMCR and notes					
Significant Influence Functions	Senior Insurance Manager Functions	Senior Manager Functions	Code of Conduct	Regulatory References	Allocate Prescribed Responsibilities	Statement of Responsibility	Duty of Responsibility	FCA Pre-Approval and Vetting by Firm
CF30 Customer Function	Key Function Holders	Significant Harm Functions	Code of Conduct	Regulatory References	Firm to certify as fit & proper on annual basis	Certification Regime: examples: <ul style="list-style-type: none"> • CASS oversight • acting as a proprietary trader • being a material risk taker under the banking remuneration rules; • being responsible for approving the deployment or amendment of a trading algorithm or having significant responsibility for monitoring a trading algorithm; or • undertaking a client dealing function 		
Other staff	Other staff	Other staff	Code of Conduct	Regulatory Code of Conduct: staff who do not perform a Senior Management Function, Significant Harm Function, or are on the list of Ancillary Staff below.				
		Ancillary staff	Specific roles include: receptionist/switchboard operators, post room, security guards, clerical. Not required to meet any standards.					

Certification regime

Those undertaking SHFs will need to meet certain requirements in order to be issued with a fit and proper certificate valid for 12 months. It indicates that the employee is assessed in terms of honesty, integrity, reputation, as well as whether the person has the necessary qualifications, training, competence and personal characteristics to perform the role.

Analysis: conduct and culture are on the regulatory agenda

The main reason for merging and extending the two regimes is regulator interest in improving culture and ethics within all financial services firms.

Andrew Bailey: “Trust in financial services will only be rebuilt when the public truly believe that senior managers in our financial institutions are taking responsibility for the actions they take.”

When SMCR is extended by the end of 2018, 50,000+ new staff members will be brought into the regime, and the FCA is very close to consulting on how this will work.

Just after Easter, the FCA published its 2017-18 Business Plan, and needless to say “firm culture and governance” figured prominently. Its content describing its work to extend the SMCR was the first cross sector priority presented in the business plan, and reflects the importance to the regulator.

Firms currently outside the SMCR and SIMR that will be caught by the extended regime will recognise that this goes beyond the existing FCA Approved Persons.

They might consider their current governance structures and how responsibilities are currently allocated within the firm. The key area over and above the current APER regime will be the emphasis on ethics and culture and this happens to be the area where the PFS can help.

We have already published a range of material helping especially smaller firms consider their approach to ethics and culture, and we have plans to do more to provide resources to help firms demonstrate this.



Ethical Culture:
Developing a Culture of
Personal Responsibility in a
Regulated Environment

www.cii.co.uk/39598

Ethical Culture: A
Practical Guide for Small
Firms

www.cii.co.uk/27327